

(2) Less than 5 percent of the total outstanding amounts of the same classes of securities of the second institution, and

(3) Less than would be needed to obtain effective control of the second institution,

then the interest is too remote and inconsequential to affect the integrity of the employee's services to the Government.

(d) *Policy determinations.* Where a general policy determination of the Government might constitute a "particular matter" under 18 U.S.C. 208(a) and might affect the home institution of an NSF officer or employee, but only in the same manner as all similar institutions, the officer or employee may participate in that determination.

(e) *Support services for National Science Board tasks and responsibilities.* A member of the National Science Board may need professional, clerical, and administrative services to support the member's personal efforts to carry out Board tasks and responsibilities. With the approval of the Director and the Chairman of the National Science Board and in accordance with other laws and regulations, the NSF may contract with the home institution of the member to provide such services. The institution may receive reimbursement of all allowable costs, but no profit or fee. In such circumstances any financial interests the institution might have are normally too inconsequential to affect the integrity of the services provided by the Board member to the Government.

[47 FR 32131, July 26, 1982. Redesignated at 61 FR 59839, Nov. 25, 1996]

PART 689—MISCONDUCT IN SCIENCE AND ENGINEERING

Sec.

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AUTHORITY: Sec. 11(a), National Science Foundation Act of 1950, as amended (42 U.S.C. 1870(a)).

SOURCE: 56 FR 22287, May 14, 1991, unless otherwise noted.

§ 689.1 General policies and responsibilities.

(a) *Misconduct* means

(1) Fabrication, falsification, plagiarism, or other serious deviation from accepted practices in proposing, carrying out, or reporting results from activities funded by NSF; or

(2) Retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith.

(b) The NSF will take appropriate action against individuals or institutions upon a determination that misconduct has occurred in proposing, carrying out, or reporting results from activities funded by NSF. It may also take interim action during an investigation. Possible actions are described in § 689.2.

(c) NSF will find misconduct only after careful inquiry and investigation by an awardee institution, by another Federal agency, or by NSF. An "inquiry" consists of preliminary information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of misconduct has substance. An investigation must be undertaken if the inquiry determines the allegation or apparent instance of misconduct has substance. An "investigation" is a formal examination and evaluation of relevant facts to determine whether misconduct has taken place or, if misconduct has already been confirmed, to assess its extent and consequences or determine appropriate action.

(d) Before NSF makes any final finding of misconduct or takes any final action on such a finding, NSF will normally afford the accused individual or institution notice, a chance to provide comments and rebuttal, and a chance to appeal. In structuring procedures in individual cases, NSF may take into account procedures already followed by other entities investigating the same allegation of misconduct.

(e) Debarment or suspension for misconduct will be imposed only after further procedures described in applicable debarment and suspension regulations, as described in §§ 689.7 and 689.8, respectively. Severe misconduct, as established under these regulations, is an independent cause for debarment or suspension under the procedures established by the debarment and suspension regulations.

(f) The Office of Inspector General (OIG) oversees and coordinates NSF activities related to misconduct, conducts any NSF inquiries and investigations into suspected or alleged misconduct, and except where otherwise provided, speaks and acts for NSF with affected individuals and institutions.

§ 689.2 Actions.

(a) Possible final actions listed below for guidance range from minimal restrictions (Group I) to the most severe and restrictive (Group II). They are not exhaustive and do not include possible criminal sanctions.

(1) Group I Actions.

(i) Send a letter of reprimand to the individual or institution.

(ii) Require as a condition of an award that for a specified period an individual, department, or institution obtain special prior approval of particular activities from NSF.

(iii) Require for a specified period that an institutional official other than those guilty of misconduct certify the accuracy of reports generated under an award or provide assurance of compliance with particular policies, regulations, guidelines, or special terms and conditions.

(2) Group II Actions.

(i) Restrict for a specified period designated activities or expenditures under an active award.

(ii) Require for a specified period special reviews of all requests for funding from an affected individual, department, or institution to ensure that steps have been taken to prevent repetition of the misconduct.

(3) Group III Actions.

(i) Immediately suspend or terminate an active award.

(ii) Debar or suspend an individual, department, or institution from participation in NSF programs for a speci-

fied period after further proceedings under applicable regulations.

(iii) Prohibit participation of an individual as an NSF reviewer, advisor, or consultant for a specified period.

(b) In deciding what actions are appropriate when misconduct is found, NSF officials should consider:

(1) How serious the misconduct was;

(2) Whether it was deliberate or merely careless;

(3) Whether it was an isolated event or part of a pattern;

(4) Whether it is relevant only to certain funding requests or awards involving an institution or individual found guilty of misconduct.

(c) Interim actions may include, but are not limited to:

(1) Totally or partially suspending an existing award;

(2) Totally or partially suspending eligibility for NSF awards in accordance with debarment-and-suspension regulations;

(3) Proscribing or restricting particular research activities, as, for example, to protect human or animal subjects;

(4) Requiring special certifications, assurances, or other, administrative arrangements to ensure compliance with applicable regulations or terms of the award;

(5) Requiring more prior approvals by NSF;

(6) Deferring funding action on continuing grant increments;

(7) Deferring a pending award;

(8) Restricting or suspending use of individuals as NSF reviewers, advisors, or consultants.

(d) For those cases governed by the debarment and suspension regulations, the standards of proof contained in those regulations shall control. Otherwise, NSF will take no final action under this section without a finding of misconduct supported by a preponderance of the relevant evidence.

§ 689.3 Role of awardee institutions.

(a) Awardee institutions bear primary responsibility for prevention and detection of misconduct. In most instances, NSF will rely on awardee institutions to promptly;

(1) Initiate an inquiry into any suspected or alleged misconduct;